IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 17327 of 2003

with

SPECIAL CIVIL APPLICATION No 16807 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

THE DISTRICT EDUCATION OFFICER

Versus

NARENDRAKUMAR ISHVERLAL DESAI

Appearance:

1. Special Civil Application No. 17327 of 2003
   Mr.N.D.Gohil, AGP for Petitioner No. 1
   MR GI DESAI for Respondent No. 1
   RULE SERVED for Respondent No. 1,2-3
2. Special Civil Application No. 16807 of 2003
   Mr.N.D.Gohil, AGP for Petitioner No. 1
   MR CL SONI for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 06/10/2004

ORAL JUDGEMENT

1. Special Civil Application no.17327 of 2003 is filed by the District Education Officer, Surat and another, by which the judgment and order dated 4-7-2002 passed by the Gujarat Secondary Education Tribunal in Application no.460 of 2001 is challenged. By the said decision, the Tribunal was pleased to allow the application of the respondent no.1-teacher and it was held that he would be entitled to receive the benefit of one increment as per G.R. of the Education Department dated 29-10-1977. Accordingly, the petitioners herein were directed to fix the pay on the said basis and also were directed to pay arrears to the respondent no.1 herein. It was further held that the action of the department of withdrawing the benefit of one increment given to the respondent no.1 while fixing his salary in the cadre of Headmaster is illegal and there shall be no recovery pursuant to the said decision.

1.1. In Special Civil Application no.16807 of 2003, the State Government has challenged the decision of the Secondary Education Tribunal dated 3rd February, 2003 in Application no.452 of 2001 whereby under similar circumstances the case of the respondent no.1-teacher was accepted, and the teacher was held entitled to receive one additional increment as per G.R. dated 29-10-1977 and the action of not giving the benefits and seeking recovery of the excess payment was held illegal and erroneous.

2. The respective teachers have brought to my notice that under identical circumstances, earlier the State Government had approached this High Court challenging the same verdict of the Tribunal and the learned Single Judge in a reported decision of STATE OF GUJARAT v.TRIKAMLAL DHULABHAI PRAJAPATI reported in 2003(2) GHJ 181, was pleased to reject the petition of the State Government and was pleased to uphold the decision of the Education Tribunal.

3. The learned A.G.P. Mr. N.D. Gohil, appearing for the petitioners in both these petitions has also carefully gone through the said decision and he is unable to point out any point of difference between the said decided case and the present petitions. Thus, the point at issue is fully covered by the decision of the learned

Single Judge in the above mentioned reported judgment, and it is therefore not necessary for me to discuss the issue any further on merits.

4. Respectfully following the ratio of the above mentioned decision of the learned Single Judge reported in 2003(2) GHJ 181, I uphold the impugned decision of the Gujarat Secondary Education Tribunal and find that the petitions are to be and are, therefore, hereby rejected. Rule is discharged. Interim relief vacated.

(Akil Kureshi,J.)
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